THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.10531 of 2006

Dated:22.06.2006

Between:

Smt.Shareefunnisa Begum.

…Petitioners

and

The Special Officer and Competent Authority, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.10531 of 2006

ORDER:

This Writ Petition is filed challenging the order dated 02.05.2006 passed by the first respondent whereby and whereunder a final statement under Section 9 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), was issued confirming

the notice dated 09.02.2005 under Section 8(1) of the Act. By the said order, the first respondent determined 3,13,696.32 square metres of vacant land in Survey Nos.50, 51, 52, 53, 54, 60, 61, 63, 68, 69 and 70 of Mahdapur Village and allowed an extent of 1000 square metres to the legal heirs – respondent Nos.2 to 5 herein; of Bala Mallaiah, who is allegedly the pattadar. The petitioner claims that she is the daughter of late Nawab Mohammed Nawaz Jung, who is the pattadar, that on the basis of a preliminary decree in a partition suit, being O.S.No.42 of 1962, she claims 7/104th share as the property of her father, and that in the absence of any declaration filed by the petitioner or other claimants, the first respondent could not have passed orders. Other grounds are also urged in support of the writ petition. It is also the case of the petitioner that after filing the writ petition on 29.05.2006, the petitioner also filed an appeal under Section 33 of the Act on 05.06.2006, and moved an application for stay of the orders of the first respondent. So far no interim orders are passed. Therefore, the petitioner would press the stay of the proceedings.

It is now well settled that by reason of the judgment of the Supreme Court in **Bombay Metropolitan Region Development Authority v. Gokak Patel Volkart Ltd.,**, when once a person has availed the statutory alternative remedy, a writ petition would not lie. Therefore, at this stage this Court is not inclined to accept the writ petition even for preliminary hearing. Liberty is given to the petitioner to approach the Commissioner of Appeals (Urban Land Ceiling), and obtain appropriate interim orders. Needless to mention that as and when the petitioner moves the application for stay, the appellate authority shall consider the same and pass appropriate orders immediately.

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

22.06.2006

vs